

Gregory G. Spaulding, Esq. (SBN 106606)
Terry S. Sterling, Esq. (SBN 106379)
SPAULDING McCULLOUGH & TANSIL LLP
90 South E Street, Suite 200
P.O. Box 1867
Santa Rosa, CA 95402
Telephone: (707) 524-1900
Facsimile: (707) 524-1906
spaulding@smlaw.com; sterling@smlaw.com

Attorneys for Defendant
COUNTY OF NAPA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GAYLE BROCK,

Plaintiff,

vs.

COUNTY OF NAPA and DOES 1 through 50,
inclusive,

Defendants.

Case No.: CV 11-0257 SBA

EX PARTE APPLICATION OF COUNTY
OF NAPA FOR ADMINISTRATIVE
RELIEF AND APPROVAL TO FILE
MEMORANDA OF POINTS AND
AUTHORITIES IN EXCESS OF 15 PAGES;
ORDER

Date: June 5, 2012

Time: 1:00 p.m.

Courtroom: 1, 4th Floor, Oakland

PreTrial Conference: July 10, 2012

Trial Date: July 16, 2012

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Defendant COUNTY OF NAPA ("County") hereby requests an Order allowing the County to file a Reply Brief in response to plaintiff's Opposition to the County's Motion for Summary Judgment or, in the Alternative, Partial Summary Judgment ("Motion"), of up to 20 pages in length. Additional space is needed to fully respond to plaintiff's Opposition, which includes a statement of facts that requires correction and clarification, and which raises issues not addressed in the Motion, and to respond to the Declarations of plaintiff's experts, which introduce new opinions.

The County requires several pages to make the corrections to the Opposition's "Factual Summary," which is confused and misleading. For example, in connection with her description of a March 2009 meeting between decedent Scott Mostek and a County mental health counselor, plaintiff

1 includes conversations and events that occurred during a different meeting, one that took place in
2 January 2009, as well as events from the March 2009 meeting. However, based on the Opposition
3 and the selective portions of deposition testimony that are cited in support of the Opposition, it is not
4 possible to tell that events from two different meetings have been combined. The distinction is
5 significant because the issue in this case is whether Mostek was suicidal in March 2009, and while
6 Mostek saw the mental health counselor in March 2009 because he wanted to refill a prescription, he
7 saw the mental health counselor in January 2009 after he reported that he was feeling suicidal.
8 There are a number of other such corrections to plaintiff's Factual Summary that need to be made in
9 order for the Court to have a clear understanding of the facts.

10 In addition, the Opposition raised a number of legal issues that were not briefed in the
11 Motion, which must be addressed in the Reply.

12 Finally, the Declarations of plaintiff's experts include a number of new opinions, as well as
13 opinions they are not qualified to make. The Declarations also refer to exhibits that are
14 objectionable. Pursuant to /Local Rule 7-3(c), any evidentiary objections to the Opposition must be
15 contained within the County's Reply brief, instead of in a separate document.

16 As a result, in order to respond to the Opposition and to assert appropriate objections to the
17 accompanying Declarations, the County's Reply brief will exceed this Court's 15 page limit. The
18 County cannot provide the Court with an accurate statement of the facts and a full analysis of the
19 issues raised by the Opposition in 15 pages. The County requires additional space of up to a total of
20 20 pages for its Reply brief.

21 Therefore, pursuant to Local Rule 7-12, the County respectfully requests that the Court grant
22 this Application and allow the County to file a Reply brief in excess of the 15 page limit.
23 Specifically, the County seeks leave to file a Reply brief of up to 20 pages in length.

24 DATED: May 10, 2012

SPAULDING McCULLOUGH & TANSIL LLP
Attorneys for Defendant
COUNTY OF NAPA

27 By: /s/ Terry S. Sterling
28 Terry S. Sterling

ORDER

IT IS SO ORDERED.

DATED: 5/11/12


UNITED STATES DISTRICT COURT JUDGE